

**American Water Works Association
American Public Works Association
Association of California Water Agencies
Association of Metropolitan Water Agencies
National Association of Clean Water Agencies
National Association of Water Companies
National Association of Counties
National Water Resources Association
Water Environment Federation
Western Coalition of Arid States**

July 6, 2006

Chemical Facility Anti-Terrorism Act (S. 2145)

TO MEMBERS OF THE UNITED STATES SENATE

Dear Senator:

The undersigned organizations, representing thousands of community public drinking water systems, wastewater agencies and counties that supply safe drinking water and wastewater services for over 80 percent of the American population, write to express our strong concerns regarding S. 2145, the *Chemical Facility Anti-Terrorism Act*. We strongly urge the Senate to amend S. 2145 to include explicit language in the bill to remove drinking water and wastewater system security from the purview of this legislation for the following reasons:

First, water treatment facilities are public services that are accountable to the public through elected representatives and government officials. They are part of extensive federal, state and local government partnerships to protect public health, to guard the environment and to promote system security. S.2145, however, is clearly targeted at facilities in the chemical sector and not public service facilities such as drinking water systems and wastewater agencies. The clear remedy to this inconsistency is to exempt drinking water systems and wastewater agencies in the same way that S.2145 exempts federal government facilities of the Department of Defense and the Department of Energy.

Second, if enacted S.2145 would require water treatment facilities to comply with two competing regulatory authorities – the Department of Homeland Security (DHS) and the Environmental Protection Agency (EPA). Having two separate programs operated by distinct federal agencies will result in conflicting and duplicative requirements. The EPA already has an active and established water security program as the federal agency responsible for the water sector. To eliminate duplicative regulatory authority, the water sector should not be part of the DHS regulatory program established in S.2145.

Third, we are extremely concerned with the potential that DHS regulations could impair the options available to water treatment systems to conduct operations that will protect public health and the environment. For example, S.2145 as written does not prevent DHS from requiring a technology change to mitigate security risks that may have the unintended consequence of increasing potential public health and environmental risks. EPA, as the administrator of the Safe Drinking Water Act (SDWA) and Clean Water Act (CWA), would be more cognizant of the potential conflicts between federal requirements related to water quality and security and in a better position to make these risk trade-off decisions than DHS or through an inter-agency process. For this reason, water sector security responsibility should remain with EPA.

Finally, since water treatment facilities are a local public service, S. 2145 places an unfunded federal mandate on local governments. If enacted as currently written, DHS could have the discretion to mandate a security regulatory program for the water sector and require security changes that may be inconsistent with those planned by the water treatment facility. Some of these changes might require expensive construction at a time when water treatment facilities are facing hundreds of billions of dollars in other infrastructure improvements and may not address the real vulnerabilities identified in local security planning. These additional expenses will be born by local ratepayers and local governments.

We ask you to withhold your support for S. 2145 until such times as the concerns of local governments and water treatment facilities are satisfactorily addressed.

Thank you for your consideration of our views.

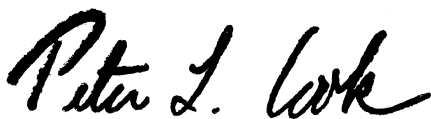
Sincerely,



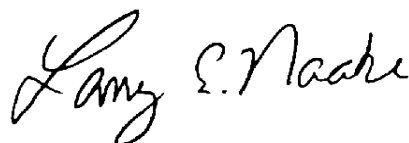
Diane VanDe Hei, Executive Director
Association of Metropolitan Water Agencies



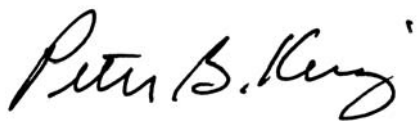
Jack Hoffbuhr, Executive Director
American Water Works Association



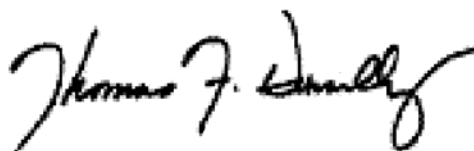
Peter Cook, Executive Director
National Association of Water Companies



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Thomas F. Donnelly, Executive VP
National Water Resources Association



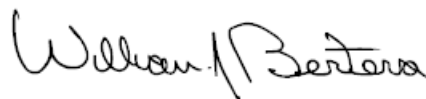
Steve Hall, Executive Director
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Ken Kirk, Executive Director
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